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WHAT IS THE LAW

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A Legal Informational Guide to
State Civil Rights Statutes and
FEPC Legislation, and Procedures
for Processing Court Cases.

**National CIO Committee
to Abolish Discrimination**

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Introduction

There has been a great need and demand for a handbook of this kind. Specifically, because of the difficulty involved in finding accommodations for interracial personnel at conventions, conferences, luncheons, etc., and, in general, because CIO unions and members want to be familiar with their civil rights as they apply to anti-discrimination statutes, we have gathered together the particular information contained herein.

Much discrimination and segregation is successfully practiced due to lack of knowledge on the part of American citizens, and to their negligence about taking advantage of existing laws. We must learn not only to fully use the perfectly good state civil rights statutes and fair employment practice legislation, but to exert our full strength in getting similar laws passed in the remaining states.

The facilities of functioning anti-discrimination committees throughout the United States are available to aid in the enforcement of existing laws. Besides the National CIO Committee to Abolish Discrimination, assistance can be sought through local committees of most CIO industrial union councils, or through committees to abolish discrimination in the following CIO unions:

American Newspaper Guild
International Union of Mine, Mill & Smelter Workers
National Maritime Union of America
Retail, Wholesale & Department Store Union
United Automobile, Aircraft, and Agricultural Implement Workers of America
United Farm Equipment & Metal Workers of America
United Gas, Coke & Chemical Workers of America
United Packinghouse Workers of America
United Public Workers of America
United Office and Professional Workers of America

Civic groups, such as the National Association for the Advancement of Colored People, which has local branches throughout the states, and the Civil Liberties Union, have been very active in this field and may also be consulted.

James B. Carey

Secretary-Treasurer, CIO
Chairman, Committee to Abolish Discrimination

STATE CIVIL RIGHTS STATUTES

In this section are found, briefly, the anti-discriminatory statutes as they exist in the twenty states which have them. For practical purposes, there are also listed the penalties involved in flaunting these statutes, as well as the procedure for their enforcement.

Eighteen of the states prohibit discrimination in restau-

rants and, usually, other eating places; most of them prohibit it in public conveyances of all types; over half of them include theaters and barber shops; while here and there the list includes hotels, hospitals and rest rooms; stores, elevators and garages; poolrooms, skating and bicycle rinks, shooting galleries and poolrooms, race courses and gymnasiums; down to saloons, hearses and cemeteries. All of the eighteen *statutes* include at the end of their specific lists a general phrase, such as, "and all other places of public accommodation or amusement." Seven of these eighteen states plus two additional states prohibit discriminatory advertising.

The *penalties* range from those for criminal action, through fines of from $10 to $1000 and/or jail sentences of from 30 days to 1 year, to civil suits for damages.

In most cases, *enforcement* can be secured by one or both of two methods: police arrest or criminal action through the prosecuting attorney; a civil law suit for damages.

An additional enforcement possibility not discussed below involves the technicality of whether the establishment practicing discrimination operates under license from a municipal or state agency (such as liquor control), in which case the agency might be called upon to revoke the license.

The following steps are applicable to enforcement procedure in all twenty states, and should be followed as closely as possible:

1. Since the police are servants of the people and law enforcement officers, persons opposing discrimination should be the first to call upon the police whenever a civil rights statute is being violated.

2. Get correct name and address of individual or firm engaged in the discrimination.

3. Get names and addresses of witnesses.

4. Put in writing all facts and details of the discrimination as soon as possible, not trusting them to memory.

5. In those states where discrimination is criminal, prepare detailed statement in writing for submission to the D.A. or other prosecuting officer.

6. Check on whether establishment is licensed and if so by what agency.

7. Where a civil action for damages can be brought, arrange for action by a private attorney. (In some states, where the statute provides only for criminal penalties and makes no mention of the right to damages, courts have nevertheless held that the victim may sue to collect damages).

8. Consult the National CIO Committee to Abolish Discrimination, or a union anti-discrimination committee, or Bar Association civil rights committee, or Lawyers' Guild, etc., when legal help is needed or desired.

California

statute provisions:

Protects right to equal facilities of "inns, restaurants, hotels, eating-houses, places where ice cream or soft drinks of any kind are sold for consumption on the premises, barber shops, bath houses, theaters, skating rinks, public conveyances and all other places of public accommodation or amusement."

penalty:

Victim may sue for damages of at least $100.

enforcement procedure:

Civil law suit brought through private attorney.

Colorado

statute provisions:

Protects right to equal facilities of "inns, restaurants, eating houses, barber shops, public conveyances on land or water, theaters, and all other places of public accommodation and amusement". Also prohibits advertising which implies discrimination.

penalty:

Victim may sue for damages. Also criminal penalty which may include certain payments to victim, and up to one year's imprisonment.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to institute criminal action. Consult private attorney for civil suit for damages.

Connecticut

statute provisions:

Protects right to equal accommodations in places of public accommodation, resort or amusement, such as hotels, restaurants, public conveyances and stations, theaters, parks.

penalty:

Fine of $25 to $100 or up to 30 days in prison, or both.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to institute criminal action.

Illinois

statute provisions:

Protects right to equal facilities of "inns, restaurants, eating houses, hotels, soda fountains, soft drink parlors, taverns, roadhouses, barber shops, department stores, clothing stores, hat stores, shoe stores, bathrooms, restrooms, theaters, skating rinks, concerts, cafes, bicycle rinks, elevators, ice cream parlors or rooms, railroads, omnibuses, busses, stages, airplanes, street cars, boats, funeral hearses and public conveyances." Prohibits advertising by place of public accommodation, resort or amusement which implies discrimination.

penalty:

Establishment which discriminates is guilty of maintaining public nuisance and may be stopped.

enforcement procedure:

Special statute makes it duty of sheriff, deputy sheriff or police authorities to investigate, secure evidence and sign complaint. Also duty of State's Attorney in every county to prosecute violators, and duty of Attorney General to obtain evidence of violations and see to it that complaints are made against violators. If State's Attorney or Attorney General does not act in reasonable time after affidavit of violation is filed, County Circuit Court may appoint Special Assistant Attorney General or State's Attorney to prosecute.

Indiana

statute provisions:

Protects right to equal facilities of "inns, restaurants, eating houses, barber shops, public accommodations and amusement."

penalty:

Up to $100 payment to victim and fine of $100, or up to 30 days in prison, or both.

enforcement procedure:

Call on police to make arrest or on State's attorney to prosecute. Also can bring civil action for damages through private attorney.

Iowa

statute provisions:

Protects right to equal facilities of inns, restaurants, public conveyances, barber shops, bath houses, theaters and other places of amusement.

penalty:

Fine of up to $100 and imprisonment up to 30 days.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to prosecute.

Kansas

statute provisions:

Protects right to equal accommodations in any "inn, hotel or boarding house, or any place of entertainment or amusement, for which a license is required by any of the municipal authorities of this state . . . any steamboat, railroad, stage coach, omnibus, streetcar, or any other means of public carriage for persons or freight within the state."

penalty:

Fine of $10 to $1,000 and also civil damages to victim.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to prosecute. Also can bring civil action for damages through private attorney.

Maine

statute provisions:

Does not prohibit discrimination. Prohibits only advertising by places of public accommodation which implies discrimination on basis of religion, creed, class, denomination, or nationality.

Massachusetts

statute provisions:

Protects right to equal accommodations in any "place of public accommodation, resort or amusement . . . including any inn, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest; any restaurant, eating house, public conveyance on land or water or in the air, bath house, barber shop, theater and music hall." Also prohibits advertising which implies discrimination on the basis of religion, creed, race or color, in places of public accommodation, resort or amusement.

penalty:

Fine of up to $300 or imprisonment of up to one year, or both; and, in addition, payment of $100 to $500 to victim. Fine of up to $100 or imprisonment of up to 30 days, or both, for advertising.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to prosecute. Consult privats attorney for civil suit for damages.

Michigan

statute provisions:

Protects right to equal accommodations in "inns, hotels, restaurants, eating houses, barber shops, billiard parlors, stores, public conveyances on land and water, theaters, motion picture houses, public educational institutions . . . elevators . . . escalators . . . air transportation and all other places of public accommodation, amusement, and recreation, where refreshments are or may hereafter be served." Also prohibits advertising which implies any such discrimination.

penalty:

Fine of $15 to $100 or imprisonment for 10 to 90 days, or both. Although not provided for in statute, court has held that victim may also sue for damages.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to prosecute. Consult private attorney for civil suit for damages.

Minnesota

statute provisions:

Protects right to equal accommodations in "public conveyances, theaters, or other public places of amusement, or in hotels, barber shops, saloons, restaurants, or other places of refreshment, entertainment, or accommodation."

penalty:

Violater is guilty of gross misdemeanor and, in addition, victim can bring civil action for damages up to $500.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to prosecute. Also can bring civil action for damages through private attorney.

Nebraska

statute provisions:

Protects right to equal facilities of "inns, restaurants, public conveyances, barber shops, theaters and other places of amusement."

penalty:

Violation is a crime.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to prosecute.

New Hampshire

statute provisions:

Does not prohibit discrimination. Prohibits only advertising by places of public accommodation which implies discrimination on basis of religion, class, or nationality.

New Jersey

statute provisions:

Protects right to equal facilities of public conveyances and stations or terminals, garages, hospitals, cemeteries, theaters, boardwalks, circuses and other places of entertainment, hotels, restaurants. Also prohibits advertising which implies discrimination.

penalty:

Civil action suit, with damages going to the state.

enforcement procedure:

By special statute, Attorney General has duty to enforce civil rights laws by suing for damages to be collected by the state.

New York

statute provisions:

Prohibits discrimination in hotels, restaurants, eating houses or any place where food is sold for consumption on the premises, buffets, saloons, bar rooms, ice cream parlors, soda fountains, theaters, motion picture houses, roof gardens, music halls, race courses, gymnasiums, shooting galleries, pool parlors, public conveyances, stations and terminals, stores, barber shops, garages, hospitals. Also prohibits advertising which implies discrimination.

penalty:

Fine of $100 to $500 or imprisonment of 30 to 90 days, or both. In addition, victim may sue for civil damages of $100 to $500.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to prosecute. State Attorney-General has duty to enforce statute. Also can bring civil suit for damages through private attorney.

Ohio

statute provisions:

Prohibits discrimination in "inn, restaurant, eating house, barber shop, public conveyance by air, land or water, theater, store or other place of public accommodation or amusement."

penalty:

Fine of $50 to $500 or imprisonment of 30 to 90 days, or both.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to prosecute.

Pennsylvania

statute provisions:

Prohibits discrimination in "any place of public accommodation, resort or amusement." Also prohibits advertising which implies discrimination by such places. Also special prohibition against discrimination by railroads..

penalty:

Fine of up to $100 or prison of up to 90 days, or both. For railroad discrimination, fine of up to $500 or prison of up to 90 days, or both.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to prosecute.

Rhode Island

statute provisions:

Prohibits discrimination in any "licensed inns, restaurants, eating houses, bath houses, music halls, skating-rinks, theaters, public conveyances on land or water, or . . . any licensed places of public accommodation or amusement."

penalty:

Violation is a crime.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to prosecute.

Washington

statute provisions:

Prohibits discrimination in "any place of public resort, accommodation, assemblage or amusement."

penalty:

Violation is a crime. Although not provided for in statute, court has held that victim may also sue for damages.

enforcement procedure:

Call on police to make arrest or on prosecuting attorney to prosecute. Consult private attorney for civil suit for damages.

Wisconsin

statute provisions:

Prohibits discrimination in "inns, restaurants, saloons, barber shops, eating houses, public conveyances on land or water, or any other place of public accommodation or amusement."

penalty:

Fine of up to $100 or imprisonment of up to 6 months, or both, or victim can sue for civil damage of at least $25 and costs.

enforcement procedure:

Either (1) call on police to make arrest or on prosecuting attorney to prosecute; or (2) sue for civil damages through private attorney.

STATE FAIR EMPLOYMENT PRACTICES LEGISLATION

There are five states which have laws against discrimination in private employment. It should be noted that this is separate and different from the type of law found in many states prohibiting discrimination only with respect to public employment, employment by contractors doing work for the state or municipality, work being done on public housing projects, etc. It also does not include the law in Illinois which places a penalty of $25 to $100 on any employer who fails to pay women equal wages for equal work as compared to men.

The five states may be divided into two groups:

1. Indiana and Wisconsin—which have laws containing no penalties and providing only for investigation, study, reports, etc.
2. Massachusetts, New Jersey and New York—which establish real prohibitions on discrimination with an enforcement procedure.

The following describes more fully what the laws in each of these groups do, and what action may be taken.

a. What the laws do: Both laws give an existing agency (Labor Commissioner in Indiana; Industrial Commission in Wisconsin) certain special powers to investigate, study and report on problems of discrimination. In general, these agencies are to investigate discrimination; study and formulate ways of eliminating it; publish reports and recommendations; hold conferences with employers, unions and public and private agencies; make recommendations to individual parties and to the legislature. Although both laws reject discrimination, there are no penalties. The agency has no enforcement power.

Both laws also establish advisory boards—in Indiana, composed of members of the State Legislature; in Wisconsin, composed of representatives of labor, management and the public.

b. What action can be taken: Even though these laws are almost meaningless as protection against discrimination, victims of discrimination and organizations fighting discrimination should make whatever use they can of the legal machinery set up. Complaints of discrimination should be made to the appropriate state agency, a hearing demanded, and the best use made of the public exposure which the machinery of the law makes possible. The law can be used to some extent as a means of pointing public attention to instances of discrimination in employment.

Laws with enforcement procedure • Massachusetts, New Jersey, New York

a. What the laws do: It is made unlawful practice—

- for an employer to discriminate as to hiring, discharge or conditions of employment, because of race, color, creed, national origin or ancestry;
- for a labor organization to exclude, expel or discriminate in any way, because of race, color, creed, national origin or ancestry;
- for an employer or an employment agency to print, circulate any advertisement, or to use any form of application for employment which implies any such discrimination.

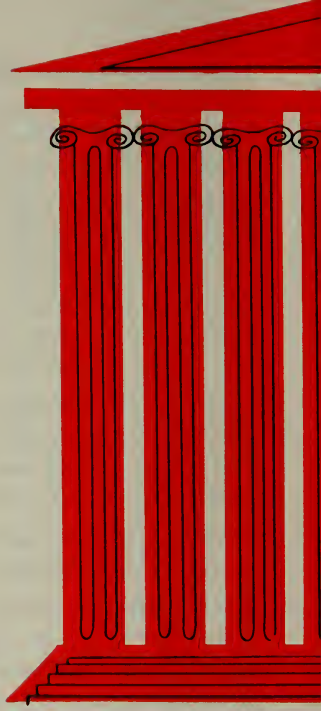
When complaint is made that anyone is engaging in unlawful discrimination, a special agency of the state, established in these laws, has power to enforce the laws. In Massachusetts, it is the Fair Employment Practices Commission; in New Jersey, it is the Department of Education, Division against Discrimination; in New York, it is the State Commission against Discrimination.

The enforcement agency investigates the complaint, tries to eliminate the discrimination by conciliation and persuasion. If that fails, the agency may issue a notice of hearing, hold a hearing on the complaint, make its decision. If the decision finds that there has been unlawful discrimination, the Commission may issue an order requiring that the discrimination cease, and that the violator remedy the discrimination by such means as hiring,

reinstating or upgrading the employee, with back pay; or, if a labor organization is involved, by restoring the victim to membership. The Commission may then apply for a court order enforcing the Commission's order.

b. What action can be taken: Any individual who is the victim of discrimination can file a complaint with the state agency, filling in the standard form which gives the name and address of the violator, the nature of the violation, etc. The complaining individual has no further responsibility except to be available to testify at the hearing. The Commission will investigate the complaint and, if a hearing is ordered, have its attorney present the case. The person who filed the complaint may, if he wishes, have his own lawyer at the hearing.

There is no provision allowing an organization or anyone other than the actual victim of the discrimination to file a complaint, except that certain public officials are authorized to do so (in New Jersey, the Commissioner of Labor or the Attorney General; in Massachusetts, the Attorney General or the Commission itself; in New York, the Industrial Commissioner or Attorney-General). There are, however, special instances in which certain organizations may file a complaint. If an organization interested in guaranteeing protection against discrimination finds it cannot file a complaint itself, it certainly can advise and assist an individual victim in submitting his complaint: and, if necessary—where no indivdual has filed a complaint—make demands on appropriate public officials for the filing of a complaint.



SPECIAL ANTI-DISCRIMINATION PROTECTION IN LABOR RELATIONS

In addition to the states' fair employment practices laws, various courts and agencies have made decisions bearing on discrimination in working conditions. These fall into three main categories:

Court Protection for Union Members:

Both the U. S. Supreme Court and some state courts have held, even where there is no special statute on the subject, that a labor union must represent all its members, without discrimination, both as to their membership rights and to the terms of the contract with the employer.

The U. S. Supreme Court has declared that a railway labor organization, when given exclusive bargaining rights under the Railway Labor Act, has the duty to represent all employees without racial discrimination.

The California Supreme Court has declared that a labor union which refuses to admit Negroes to full and equal membership cannot enforce a closed-shop agreement against a Negro who refuses to accept membership under discriminatory conditions.

No Discrimination in NLRB Bargaining Units:

The National Labor Relations Board has repeatedly declared that in deciding on an appropriate unit it will not draw any lines based on race, creed, or color.

NWLB Rule Against Discriminatory Wage Rates:

The National War Labor Board consistently refused to sanction any discrimination in wage rates on the basis of race, creed, or color. Although this Board no longer exists, its rulings are part of many contracts made during the war, and may serve as a precedent for continuing non-discrimination in these and other contracts.

For Further Study—

An American Dilemma. By Gunnar Myrdal. Harper & Brothers, New York. 2 volumes. $7.50. 1944.

This is the most penetrating and important book yet written on the Negro problem and modern democracy, with international implications. It has been briefed in "THE NEGRO IN AMERICA," Pamphlet No. 95, published by the Public Affairs Committee, 30 Rockefeller Plaza, New York 20. 32 pages. 10¢. 1944.

The Constitution and Civil Rights. By Milton R. Konvitz. Columbia University Press, New York. 254 pages. $3. 1947.

This is an excellent reference volume, based on actual court cases.

Together these two major works constitute authoritative sources which are of value not only to members of all minority groups but to everyone concerned with civil liberties.

15c a copy, 100 for $13, 500 for $60.

designed by Ruth Robbins

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